

REMARKS

Claims 1, 6-16, 25, and 34-39 have been examined and claims 1, 6-16, 25, and 34-39 stand rejected. By virtue of this response claims 1, 12, 15, and 37 have been amended. The amendments are supported by at least the claims as originally filed and page 11, lines 6-8 of the application as filed; accordingly, no new matter has been added. Accordingly, claims 1, 6-16, 25, and 34-39 are currently under consideration. For the Examiner's convenience, Applicants' remarks are presented in the same order in which they were raised in the Office Action.

Claim Rejections under 35 USC §103

Claims 1, 6-16, 25, and 34-39 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Hu (U.S. Patent No. 6,173,322, hereinafter "Hu") in view of Logue (U.S. Patent No. 5,935,207, hereinafter "Logue").

Claims 1, 6-16, 25, and 34-39

Applicants respectfully submit that: 1) the combination of Hu and Logue fails to disclose or suggest each and every feature of currently amended claim 1; 2) the combination of HU and Logue fails to present a *prima facie* case of obviousness because the proposed combination impermissibly changes Hu's principle of operation; and 3) Logue teaches away from the Examiner's proposed combination and the features of the present claims.

Initially, it is noted that Applicants submitted three (3) separate arguments in the response to final Office Action dated December 24, 2008. However, in the Examiner's response made in the Advisory Action dated January 16, 2009, the Examiner completely failed to address the final two arguments made by Applicants.¹ With respect to the first argument, the Examiner cited portions of Hu for allegedly disclosing the features of claim 1. Applicants disagree with the Examiner's argument for reasons stated, but have amended claim 1 to recite "after receiving the web page request at the first web server, determining whether a predetermined condition exists at

¹ Additionally, the Examiner has ignored additional arguments made by Applicants with respect to claims 12, 13, and 39.

the first web server.” The amendment clarifies that the predetermined condition of the web server is checked after receiving the web page request at the web server. As stated above, amendments are supported by at least the claims as originally filed and page 11, lines 6-8 of the application as filed.

I. Hu Does Not Disclose or Suggest Determining Whether a Predetermined Condition Exists After Receiving a Web Page Request

Applicants argued in response to final Office Action dated December 24, 2008 that Hu at least fails to disclose or reasonably suggest “receiving a web page request at a first web server...the first web server assigned to service the request by an interceptor operable to allocate web requests...after receiving..., determining whether a predetermined condition exists at the first web server,” as required by claim 1. (Emphasis added)

In response to Applicants’ arguments, the Examiner, on page 2 of the Advisory Action dated January 16, 2009, states “Hu teaches For instance, network request manager 102 in a proxy mode of operation receives a client request from client 104. After receiving the client request a dynamic metric 814 is measured at t1. Policy module 206 generates a random number of 0.5, and compares the number to dynamic metric 814 as follows.” (Advisory Action, Page 2) While Applicants disagree with the Examiner’s assertion that the above referenced portions of Hu disclose the recited features of claim 1, Applicants have amended claim 1 to further clarify that the predetermined condition is checked “after receiving the web page request at the first web server.” (Emphasis added).

Applicants believe the Examiner is taking the position that network request manager 102 of Hu reads on the “web server” of claim 1. However, Applicants submit that network request manager 102 is not “assigned to service” web page requests and that network request manager 102 is more analogous to the “interceptor operable to allocate web requests among the plurality” (of web servers) of claim 1. In support of Applicants’ position, Hu discloses that “Network request manager 102 handles all client requests directed to a web site on wide-area network 108, selects a content server 106 to service each request, and causes a connection to be established with the selected

content server 106 so that the request may be fulfilled.” (Hu, col. 4, lines 7-12, Emphasis added) Thus, Applicants submit that network request manager 102 of Hu reads on the interceptor of claim 1.

As stated above, network request manager 102 fails to disclose a “web server,” as recited by currently amended claim 1. Thus, Applicants submit that defining/generating dynamic metric 814 and the randomly generated number of Hu fails to disclose “after receiving the web page request at the first web server, determining whether a predetermined condition exists at the first web server,” as required by currently amended claim 1. (Emphasis added) Applicants submit that both dynamic metric 814 and the randomly generated number are defined/generated (determined) before the client request is received at the content server (web server). In support of Applicants’ position, Hu states “policy module 206 selects a content server 106 to service each client request according to dynamic metric 814. In a preferred embodiment, this selection is performed by generating a random number...and comparing the number to dynamic metric 814.” (Hu, col. 9, line 66-col. 10, line 4) In other words, dynamic metric 814 and the randomly generated number are used to select a particular content server of a plurality of content servers. Since a content server must be selected before a request can be sent, it is clear that both dynamic metric 814 and the randomly generated number must be determined before the request is sent to the content server (and thus received by the content server). Therefore, Applicants submit that Hu fails to disclose “after receiving the web page request at the first web server, determining whether a predetermined condition exists at the first web server,” as required by claim 1.

The Examiner further references Figs. 9A and 9B and recites, among other things, “network request manager 102 selects an appropriate content server 106 and forwards the client request on to the selected content server 106. Content server 106 services the client request...” Based on the cited portions of Hu and without any explanation from the Examiner, Applicants believe the Examiner is alleging that the “network request manager 102” and “content server 106” of Hu read on “an interceptor operable to allocate web requests” and “the first web server assigned to service the request by an interceptor” of claim 1, respectively. (Emphasis added) Applicants’ response will be based on these assumptions of the Examiner’s characterization of Hu.

In response to Applicants' arguments, the Examiner further recites, among other things, "proxy module 210 handles most failures of a content server 106 without disruption to client 104. If the failed content server was the last in the selected group, network request manager 102 might report the failure to client 104." If the Examiner is taking the position that a failure of a content server is the predetermined condition, then Hu at least fails to disclose that the condition is determined after the request is received at the web server (content server 106 of Hu). (Emphasis added) Specifically, Hu recites that "proxy module 210 handles most failures of a content server 106" and that "proxy module 210 merely has to re-query policy module 206 for a new content server 106 whenever the original content server fails to service the client request for whatever reason." (Column 11, lines 60-65, Emphasis added) Thus, proxy module 210 does not wait until after the request is received by content server 106 to determine whether content server 106 failed, but rather determines that content server 106 failed based on a failure to service the client request regardless of whether or not content server 106 actually received the request. (Emphasis added) Alternatively, if the Examiner is alleging that the content server being "the last in the selected group" is the predetermined condition, Applicants respectfully disagree as it is not a condition that "exists at the first web server," as required by claim 1.

Accordingly, Hu fails to disclose or suggest the recited features of "after receiving the web page request at the first web server, determining whether a predetermined condition exists at the first web server," as required by claim 1. The addition of Logue fails to cure the deficiencies of Hu, nor is Logue alleged to. Thus, Applicants request the rejection be withdrawn and the claim allowed.

Claims 12, 15, and 37 have been amended similarly to claim 1 and are allowable over Hu and Logue for at least similar reasons as stated above. Thus, Applicants request the rejections be withdrawn and claims 1, 12, 15, and 37 be allowed (as well as all claims depending therefrom).

II. The Combination Impermissibly Changes Hu's Principle of Operation (MPEP 2143.01(VI))

In rejecting claims 1 and 37, the Examiner cites to Hu in combination with Logue, and states "it would have been obvious to one having ordinary skill in the art at the time of the invention

presented with teaching Hu [sic] to incorporate the load balancing mechanism as suggested by Logue, by initially mapping each URL to only one server, and then redirecting the request[] to appropriate [sic] server.”

Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness at least because the Examiner’s proposed combination requires impermissibly modifying Hu’s principle of operation. (See MPEP 2143.01(VI), which states “[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.”) (Emphasis added).

In this instance Hu describes “[t]he present invention acts as an intermediary between the client and one or more content servers which actually service the client request.” (Col. 2, lines 29-31). “Network request manager 102 handles all client requests directed to a web site on wide-area network 108, selects a content server 106 to service each request, and causes a connection to be established with the selected content server 106 so that the request may be fulfilled.” (Col. 4, lines 6-12). Accordingly, one skilled in the art will thus recognize Hu describes centralized network request managers that act as intermediaries between clients and content servers, and distribute client requests to content servers.

In contrast to the disclosure of Hu, Logue describes decentralized dispatchers:

[P]roxy servers 405 may be arranged to form an interconnected ring configuration and the functionality of the dispatcher may be incorporated into each proxy server 405. In this embodiment, the client document requests may be initially handled by one of the proxy servers 405 in the ring.

Col. 10, lines 47-57, emphasis added.

Furthermore, “the initial proxy server receiving the client request may assume it is the appropriate proxy server.” (Col. 11, lines 3-9). It is noted that the portion of Logue cited to by the Examiner, *i.e.*, “figs. 9, 10 and col. 10, lines 15-57,” discloses two embodiments. (*See* Office Action, page 4). The first embodiment, *i.e.*, lines 15-46, discloses a centralized scheme, which

teaches away from the Examiner's proposed combination, and the second embodiment, *i.e.*, lines 47 to 57, discloses a decentralized scheme that impermissibly changes the principle of operation of the Hu reference as described herein.

Based on the foregoing, one skilled in the art would recognize Logue describes proxy servers that handle client requests they receive. A network request manager (as taught by Hu) is not used to handle client requests directed to a web site, select a content server to service each request, or cause a connection to be established with the selected content server. Hu's principle of operation, relying on network request managers, is rendered useless (or at the very least altered) by Logue's decentralization scheme. Thus, the proposed combination of Hu and Logue would impermissibly change the principle of operation of Hu by altering the operation of the disclosed centralized network request managers.

Accordingly, for at least the foregoing reasons, the Examiner's proposed combination impermissibly changes Hu's principle of operation. As such, Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness and the rejection should be withdrawn.

III. Logue Teaches Away From the Examiner's Proposed Combination

Claim 1 recites, among other things: "redirecting by the first web server the web page request from the first web server to another web server of the plurality for servicing." (Emphasis added). The Examiner concedes that Hu fails to disclose this feature, and states "Hu is silent regarding: redirecting by the first server web server [sic] the web page request from the first web server to another web[] servers [sic] of the plurality for servicing." (*See* Office action, page 3, emphasis added). The Examiner relies on Logue for this deficiency. However, Logue describes proxy servers that, when working with centralized dispatchers, do not redirect:

If a centralized dispatcher such as dispatcher 910 receives the request, then based upon the URL an appropriate proxy server is determined based upon the output of the hash algorithm . . . The proxy server 405 attempt [sic] to service the request from its local document cache 465. If a cache hit occurs, then the document is immediately available from the proxy server's local document cache 465. However, if a cache

miss occurs, the proxy server 405 will retrieve the document from an appropriate server and store a copy locally. In any event, the centralized or decentralized dispatching mechanism ultimately receives a response from the server (e.g., the document requested by the client) (step 1040). Finally, the response, typically in the form of an HTML document is forwarded to the client.

Col. 10, line 65 – col. 11, line 22, emphasis added.

In particular, “if a cache hit occurs, then the document is immediately available from the proxy server’s local document cache 465.” (Col. 11, lines 13-14). A proxy server that forwards to a client a document from its local cache cannot be said to have redirected that client’s document request to another server for servicing.

Likewise, “if a cache miss occurs, the proxy server 405 will retrieve the document from an appropriate server and store a copy locally Finally, the response, typically in the form of an HTML document is forwarded to the client.” (Col. 11 lines 16-22). A proxy server that retrieves a document from another server, stores a copy locally, and forwards it to the client also cannot be said to have redirected that client’s document request.

As discussed previously, one skilled in the art would recognize Hu teaches centralized network request managers that act as intermediaries between clients and content servers. Based on the foregoing, one skilled in the art will further recognize Logue teaches proxy servers that, when working with centralized dispatchers like Hu’s, do not redirect client requests, and therefore teaches away from the proffered combination.

For at least the foregoing reasons, Applicants respectfully submit that independent claim 1 is allowable over Hu and Logue. Additionally, claims 12, 15, and 37 contain features similar to the recited features of claim 1 and are allowable over Hu and Logue for at least similar reasons. As such, Applicants request the rejections be withdrawn and claims 1, 12, 15, and 37 allowed (as well as all claims depending therefrom).

Claims 12, 13, and 39

Claim 12 includes similar features as claim 1 discussed above, *e.g.*, “after receiving the web page request at the first web server, determining whether a predetermined condition exists at the first web server.” Applicants respectfully submit that the features of claim 12 are not disclosed or suggested by the combination of Hu and Logue for the reasons stated above and the rejection should be withdrawn.

The rejection of claim 12 further relies on Hu for disclosing the recited features relating to redirecting only for a web page “that does not have state,” and identifies Fig. 6, col. 12, lines 10-42, and col. 13, lines 1-21 as disclosing these features. Applicants respectfully disagree. First, “state” as recited in claim 12 refers to whether a user has established or may establish a stateful session with the first web server. For example, as described at page 8, lines 21-29 and page 23, lines 4-12 of the specification, state may include information identifying the user, specifying web pages the user has already requested, items the user has selected for purchase, and so on. Accordingly, Hu’s disclosure of cached web pages fails to disclose or suggest redirecting based on “state” as recited by claim 12.

Second, Applicants respectfully submit that Hu determines whether a web page is cached or not, and if the page is cached, then Hu causes its network request manager to act as a proxy for the request, rather than redirect a client to “allow client 104 to contact directly . . . the content server.” (Col. 6, lines 18-23.) Thus, caching in Hu does not suggest redirecting the web page request as recited in claims 12 and 13.

Accordingly, for at least these additional reasons, claims 12, 13, and 39 are allowable over the combination of references and the rejections must be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 324212005500. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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